

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.81 of 2017

Rakesh Kumar Agrawal, S/o Jeevan Lal Agrawal, aged about 39 years, R/o Kharora, Tahsil Tilda, Police Station Kharora, District Raipur (C.G.)

(Plaintiff)
---- Petitioner

Versus

1. G.M.R. Chhattisgarh Energy Limited, through Managing Director, Raikheda, Tilda Block, Tahsil Tilda, District Raipur (C.G.)
2. G.M. Rao, Chairman & Managing Director, G.M.R. Chhattisgarh Energy Limited
3. Ravishankar, Project Dead, G.M.R. Chhattisgarh Energy Limited,

Respondent No.2 and 3 are R/o Raikheda, Tilda Block, Tahsil Tilda, District Raipur (C.G.)
4. Shriram E.P.C. Limited, Kharora, Tahsil Tilda, District Raipur (C.G.)
5. Shriram E.P.C. Limited, through Managing Director, Near BSNL Exchange, Kharora, Tahsil Tilda, District Raipur (C.G.)
6. Atul Agrawal & P. Madan Gopal, Project Head, Shriram E.P.C. Limited, Near BSNL Exchange, Kharora, Tahsil Tilda, District Raipur (C.G.)
7. National Insurance Company Limited, Registered Office 3 Midtown Street, Post Box No. 9229, Kolkata 700071, Branch Office Madina Building, Kachahari Chowk, Raipur (C.G.)
8. Zila Vipdan Adhikari, Chhattisgarh Rajya Sahakari Vipdan Sangh, Maryadit, Raipur (C.G.), Nutan Kisan Rice Mill, Telghaninaka, Samta Colony Raod, Raipur (C.G.)

(Defendants)
---- Respondents

For Petitioner: Mr. Manoj Paranjpe, Advocate.

For Respondents No.1 and 3: -

Mr. Amrito Das, Advocate.

For Respondent No.8: Mr. Harshal Chouhan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

26/04/2017

1. With the consent of parties, the matter is heard finally.
2. The petitioner/plaintiff's application under Section 35 of the Court Fees Act has been rejected finding no merit against which this writ petition under Article 227 of the Constitution of India has been preferred.
3. Mr. Manoj Paranjpe, learned counsel for the petitioner submits that in the instant case, the learned trial Court neither noticed the State on the application under Section 35 of the Court Fees Act nor made any enquiry on the said application and straightway rejected the application that the circular is not applicable.
4. Mr. Amrito Das, learned counsel appearing for respondents No.1 and 3, would oppose the submission of learned counsel for the petitioner and would support the impugned order.
5. I have heard learned counsel for the parties and considered their rival submissions and also gone through the record with utmost circumspection.
6. The question is whether the trial Court has applied proper procedure in deciding the question of court fees.
7. In the matter of **Sri Rathnavarmaraja v. Smt. Vimla**¹, the Supreme Court has clearly held that whether proper court-fee is paid on a plaint is primarily a question between the plaintiff and the State.
8. In the present case, the trial Court has neither noticed the State for hearing on the petitioner's entitlement for exemption from court-fee nor made any enquiry on the said application to determine whether

1 AIR 1961 SC 1299

the petitioner is entitled for exemption from court-fee and straightway rejected that application.

9. In view of the above, the impugned order is set aside and the application under Section 35 of the Court Fees Act is hereby restored to its original number for hearing and disposal in accordance with law. The trial Court is directed to notice the State of Chhattisgarh and hear the State on the application and make enquiry on the said application and thereafter, decide the application under Section 35 of the Court Fees Act afresh, in accordance with law.
10. The writ petition is allowed to the extent indicated herein-above. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge